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A Methodology for the Assessment of Legal Risks of Art Collections and Museums

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Abstract

This dissertation was written as part of the MSc in Art, Law & Economy at the International Hellenic University.

The purpose of this dissertation is to develop a methodology which will enable one to assess legal risks of an art collection. This objective is achieved by combining standards and knowledge from three different disciplines: the museum collections management field, the risk management field and art law. Specifically, the project's objective is achieved within the following context:

- *SPECTRUM 4.0* - the UK Museum Collections Management Standard which is one of the leading standards for collection management and represents a common understanding of good practice for collections management in museums. It will give detailed information on an art object's lifecycle within a collection.

- *ISO31000 International Standard for Risk Management* which establishes a number of principles that need to be satisfied to make risk management effective and provides for a general framework and processes for risk management.

- Art law. By using art law bibliography, case law as well as empirical knowledge of the field, legal risks are identified.

The outcome of this project is a business toolkit comprising of a risk library and proposed risk assessment methodology that can be utilized by a professional to facilitate the assessment of legal risks in an art collection.

I would like to thank dearly my supervisor, Professor A. Kaissis for his kind patience and tolerance with me while working on this project.

I would also like to thank my husband, Andreas Koidis, for his invaluable contribution to this project. It was him who detected the lack of such a service in the art industry and it was him who, as a professional, guided me through these unchartered "risk" waters.

Keywords: art collections, legal risks, risk management

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Preface

This dissertation is an original, unpublished, independent work by the author, Phoebe Kouvelas.

Contents

1. INTRODUCTION

The scope of this work is to assess the legal risks run by those who own and/ or manage an art collection. To do so, it is firstly essential to set the wider context in which such exercise is to be run; the working ground shall be the discipline of Art Collections Management and therefore it is necessary to define and understand what it is and why it is important.

Collections management is the development and care of collections and, usually, their making available to the public. It involves a wide range of activities, including (a) Collections Development (acquisition, disposal, loans etc.), (b) Risk Management (conservation, security etc.), (c) Stock Management (documentation, cataloguing etc.), (d) Access Management (inter-pretation, rights management etc.) and (e) Legal Compliance (evidence of ownership, good governance etc)[1]. In fact, it addresses every part of the chain, from the evaluation of whether to acquire new items to an item's deaccession and disposal from the collection. Collections management is an established professional discipline for museums, archives and libraries with several professional standards emerging with the aim to codify and standardize best practice[2]. Crucially, it is needed by anyone with a legal responsibility for or ownership of a collection, be it a museum, a library, a heritage site, a private individual, a company or a historic house.

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[1] Poole, N., *Understanding Collections Management*, slides from a teaching session at University College, London, 2009.

[2] Examples of professional standards include the *Museum Accreditation Scheme, SPECTRUM Standard, Public Library Annual Statistics, Archival Inspections, BSI Code of Practice*.

2. CONTEXT

i. SPECTRUM 4.0

The scope of this project focuses on collections of art and/or cultural heritage objects, whether owned and/or managed by museums, private individuals, companies or government. In order to achieve the project's objectives (namely, to assess the legal risks of an art collection) we first needed detailed information on an art object's lifecycle within a collection. To that end, *SPECTRUM 4.0, the UK Museum Collections Management Standard*[3] was carefully selected, being internationally recognized as the leading standard for collections management. Specifically, *SPECTRUM* represents a common understanding of good practice for collections management in museums; it contains detailed procedures for managing the processes that an object goes through during its lifecycle within a collection. Although *SPECTRUM* focuses on collections management in *museums*, it is still considered the best available standard for gaining insight on an object's lifecycle in collections owned and/ or managed by private individuals, companies or government as well, whether their objective is to make the collection available to the public or not. This is due to the fact that museums, being ultimately accountable to the public, must live up to the highest available standards of care for their collections. Therefore, using an internationally recognized museum collections management standard as a baseline tool to gain insight in an object's lifecycle within a non-museum collection, we are minimizing chances that important aspects of collections management have been left out. Consequently, using the minimum standard required for collections which must be managed to the highest standard, it is safe to tailor aspects of collections management for non-museum collections.

Having detailed information on an object's lifecycle within a collection, the next step in meeting this project's objectives is to identify current practices of collections risk management; namely, what is actively being done to identify, assess and control risks and potential threats to a collection. *SPECTRUM* does have in place a Risk Management Procedure which it defines as "*the management and documentation of information relating to potential threats to an organization's collections and the objects for which it is temporarily responsible. It includes the provision of information enabling preventative measures to be taken as well as documenta-*

[3] Dawson, A. (ed.) & Hillhouse, S. (ed.), *SPECTRUM 4.0, the UK Museum Collections Management Standard*, Version 4.0, Collections Trust, 2011.

tion supporting disaster planning." From the above risk management definition but also if one reads through the functions which should be carried out in order to implement it[4], it is evident that the risks addressed are those relating to some kind of disaster taking place such as physical hazards, environmental disasters, theft and transport risks as well as employee and visitor accidents. *SPECTRUM* being the standard in collections management, it reflects the industry's current practices in relation to collection risk management. Indeed, these current practices relating to collections risks permeate throughout the industry; according to a focus paper of the UK's *Association of Independent Museums*[5], the main types of risk run by a museum involve: fire, water damage, theft, accidental damage/ vandalism, slips and falls, grounds maintenance, building work, moving machinery, substances hazardous to health, manual handling. Further, the same threats as above posing a risk to a museum and for which insurance cover is recommended to hedge against them are outlined in the *Collections Care How-To Guide*[6]. It is therefore evident that risk management of collections mainly takes into account risks of physical hazards and environmental disasters. Although all the above threats do have legal consequences, legal risks *per se* are not systematically and proactively identified and assessed.

Yet legal risks, as we shall see, permeate every aspect of art collections management and the impact that the materialization of any of these can have ranges from low to very high and includes damage in terms of financial value of the collection, reputation damage of the collector or art institution, court litigation, loss of revenue etc. Given the scale and increased complexity of the international art industry, as well as increased litigation relating to art (whether concerning fraud relating to fakes, breach of intellectual property rights, restitution claims etc) assessing a collection's legal risks has become a necessary activity that must be performed proactively.

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[4] To name but a few, the functions SPECTRUM sets in order to implement its Risk Management Procedure include (a) *the establishment of building codes and priority codes identifying items for immediate removal from the disaster area* and (b) *the maintenance of an information file of individuals and organizations to approach in the event of a disaster* and (c) *the training of staff and volunteers in the management of risk and disaster recovery.*

[5] Prideaux, A., Risk Management and Insurance for Museums, *Association of Independent Museums*, June 2007

[6] Harrison, M., *Insuring Museum Collections: A Collections Care How-To Guide*, Norfolk Museums and Archeology Service, 2012

ii. ISO31000

In order to achieve this project's aim and provide a methodology which will identify, assess and control the legal risks run by art institutions and art collectors, it is necessary to select an appropriate risk management standard[7]. *ISO31000 International Standard for Risk Management 2009,* is thought to be the best suited such standard for these purposes as it is general in nature so that it can give guidance across many different industries and types of system. It establishes a number of principles that need to be satisfied to make risk management effective and provides for a general framework and processes for risk management. The risk management lifecycle is illustrated in Chart 1, below. Then, based on the principles of risk management outlined in *ISO31000*, a specific risk assessment methodology is selected in order to assess the legal risks of art collections.

According to *ISO 31000*, risk assessment is the overall process of risk identification, risk analysis and risk evaluation. Identifying risk includes understanding the sources of risk, areas of impact, events and their causes and potential consequences. The goal is to create a thorough list of risks (a risk library), including risks that may be associated with missed opportunities and risks which are altogether out of the direct control of an organization. The purpose of analyzing risk is to understand everything possible about risks, including the causes and sources, consequences and likelihood of occurrence. The purpose of risk evaluation is to review the analysis, criteria and tolerance of risks in order to prioritize and choose appropriate risk treatment methods. Crucially, the evaluation process helps organizations make appropriate decisions about whether and how to treat risks[8].

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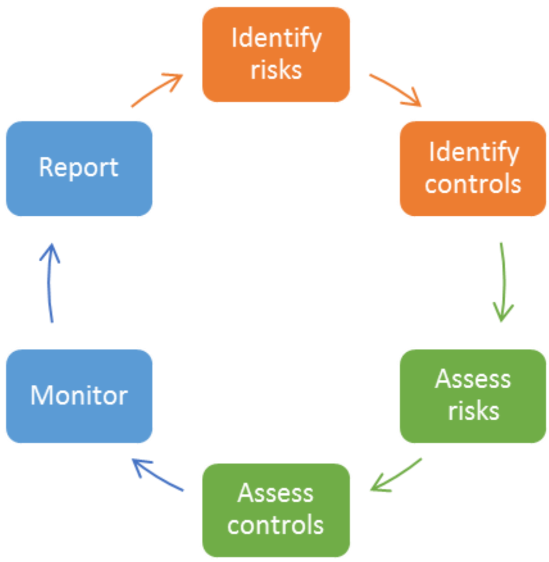
[7] A risk management standard is the standard which guides the coordinated activities to direct and control an organization with regard to risk.

[8] Blunden, T. & Thirlwell, J. M*astering Operational Risk*, 2010

Chart 1: Risk Management Lifecycle

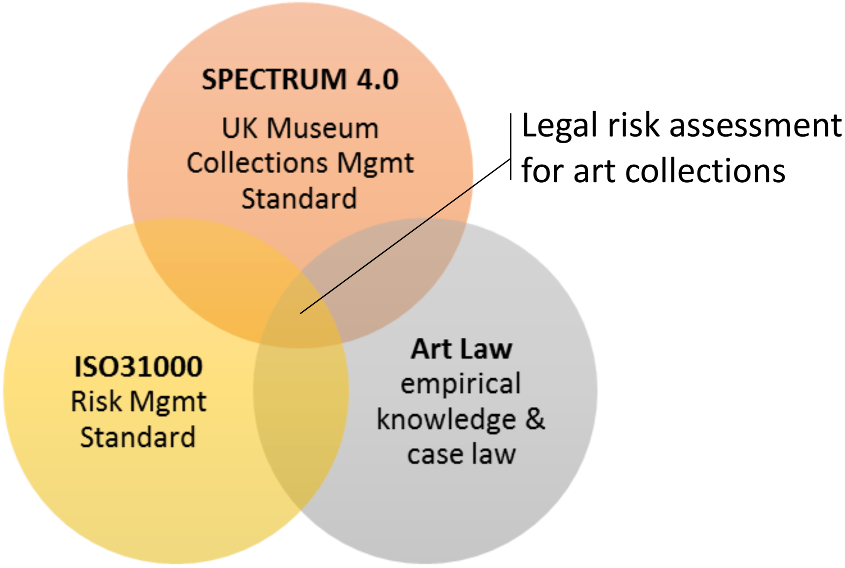


The general benefits of carrying out a legal risk assessment for an art collection are wide ranging and include a clearer understanding of the legal and operational risks which the collection faces, identifying risks which have insufficient controls[9], and setting action plans to enhance existing controls and implement new controls. Specifically, benefits will include a comprehensive understanding of the organizations' legal risk profile, a defined structure to legal risks and controls which will provide an effective and consistent treatment of legal risks across the organization, embedding legal risk management processes into the core processes of the organization and a better response to legal issues within an organization as the risks are more clearly understood. Crucially, assessing legal risks of art collections enables one to quantify different risks expressed in terms of loss of value to an entire collection and so risk assessment is a tool that can help mitigate such loss of value[10].

[9] As we shall see in detail below, a control is a measure which will modify risk.

[10] Value here refers not only to financial value, but to historical, reputational and societal as well.

Chart 2: Context of the legal risk assessment for art collections



3. HOW A LEGAL RISK LIBRARY IS DEVELOPED

i. DEFINITIONS & CONTEXT

Before embarking on describing the creation of the legal risk library, it is helpful to outline the basic components of a risk assessment; these are essentially the risks, the control objectives, and the control activities. Briefly, a risk, or a risk event, is an occurrence which may adversely impact the organization's objectives. A control objective and its control activities are the elements within a process which have been developed to facilitate actions to reduce or eliminate either the likelihood or impact of a risk event.

Next, it is necessary to establish the context within which the risk assessment is to take place; this will capture the organization's objectives, the environment in which it pursues those objectives, its stakeholders and the diversity of risk criteria – all of which will help reveal and assess the nature and complexity of its risks. The context will vary according to the industry and the needs of each organization. The advantage of using *SPECTRUM* as a guide for an art object's lifecycle within a collection is that the internal and the external context is largely set and a museum's objectives in relation to those objects are elaborately defined[11].

Having said this, the way that the legal risk library for art collections has been created is described below.

ii. METHOD OF CREATION

A risk library is a comprehensive list of risks based on events that might create, enhance, prevent, degrade, accelerate or delay the achievement of objectives[12]. This project's legal risk library has been created by applying the risk management principles of *ISO31000* to the procedures which *SPECTRUM* has in place for managing the processes that an object goes through during its lifecycle in a museum. Specifically, the three risk assessment components described

[11] Under each of the 21 procedures outlined by SPECTRUM for managing the processes that an object goes through during its lifecycle in a museum, minimum standards are set. These, for the legal risk assessment purposes, are the control objectives.

[12] ISO31000, 2009, par. 5.4.2.

above (control objectives, risks and control activities) were applied to each of SPECTRUM's procedures.

iii. SPECTRUM OBJECTIVES

As mentioned above, *SPECTRUM* provides for the larger context within which the risk management process is to be applied, which is the museum context. Further, it sets 21 procedures for managing the processes that an object goes through during its lifecycle in a museum. The rationale behind providing for detailed procedures is the knowledge that standardized and agreed procedures are key to efficient collections management. Crucially, for each of the 21 procedures in place, *SPECTRUM* has set multiple objectives which any museum must meet when managing a collection. It has defined these under a Minimum Standard section for each procedure. These objectives, or Minimum Standards, outline what must be achieved, regardless of how a procedure is implemented. Although depending on their size and circumstances museums will implement the procedures differently, nevertheless, each procedure's definition[13] and Minimum Standard is applicable to all museums, regardless of their size and circumstances.

iv. OBJECTIVES INVOLVING LEGAL RISKS

Therefore, SPECTRUM has provided us with specific objectives which must be achieved in order to manage collections efficiently. These are outlined under 21 different procedures. In order to identify the legal risks involved during an object's lifecycle in a collection, not all of these objectives were used; rather, only those objectives which involve legal risks have been selected. For instance, an objective under the Object-Entry Procedure reads: "*Uniquely identify the newly received object or associated group of objects*". Although this is an important objective for an efficient Object-Entry Procedure (all objects which are new to a collection must be uniquely identified), it nevertheless carries no legal risk *per se*. On the other hand, the objective under the same procedure reading "*Allow for objects and associated records to be checked on entry to ensure that they correspond to any accompanying inventory and/or transfer of title documentation supplied*" does carry legal risks. For example, the Organization managing the collection may be liable for loss or damage of objects which do not belong to it if the object entering is not accompanied with the appropriate transfer of title documentation or if an ob-

[13] Each procedure's definition explains the scope of the procedure and any ambiguous terms.

ject enters the Organization which should not have according to its Acquisition policy. In identifying and selecting the risks involved in an organization's objectives, it is necessary to make use of the best available information sources such as historical data, experience, observation and expert judgements. For the purposes of this project, the author used art law case law and bibliography, as well as empirical knowledge of the art law field in order to identify which of *SPECTRUM's* objectives involve legal risks and what these legal risks may be.

v. EXPRESSING THE LEGAL RISKS

Once the objectives involving legal risks have been selected, each risk must be articulated and inserted in the risk library. According to *ISO31000*, a risk is often characterized by reference to potential events and consequences, or a combination of these. An event is an occurrence or change of a particular set of circumstances and may even consist of something not happening. It can have its origin in a number of causes or triggers, which may vary over time, and may also generate different consequences or effects, which may also vary over time. Finally, a risk event is evaluated in terms of the likelihood and the impact of a risk. A consequence, on the other hand, is an outcome of an event affecting objectives. It can be certain or uncertain, it can have positive or negative effects on objectives and can be expressed qualitatively or quantitatively. In articulating risks for the legal risk library, the risk cause[14] has also been inserted; this is an element which alone or in combination has the intrinsic potential to give rise to risk. It essentially answers to the question "what is the event caused by?".

In practice, then, in creating the legal risk library for art collections, for each *SPECTRUM* objective involving one or more legal risks selected, the risks were articulated by answering to these three basic questions:

What is the event?

What is it caused by?

What are the consequences?

An example will illustrate:

One of the objectives of *SPECTRUM's* Loans-In Procedure reads: "*Ensure that all loans are for fixed periods*". Following the *ISO31000* principles above, the risk is expressed by answering the above three questions:

[14] A risk cause is referred to as risk source in ISO31000.

Question A: What is the event?

Answer: Object on loan for an indefinite period.

Question B: What is the event caused by?

Answer: Inefficient policy covering the borrowing of objects.

Question C: What are the consequences?

Answer: Legal title issues due to lender becoming untraceable, breach of duty of care (due to cluttered storerooms increasing chances of infestation), conservation expenses for objects that the organization does not own.

Therefore, the risk is expressed as: Object on loan for an indefinite period caused by inefficient policy covering the borrowing of objects. This may result in legal title issues due to lender becoming untraceable, breach of duty of care (due to cluttered storerooms increasing chances of infestation), conservation expenses for objects that the organization does not own.

vi. CONTROL ACTIVITIES

Once the legal risks in an art collection have been identified, action needs to be taken. Therefore, for each legal risk inserted in the risk library, a measure which will mitigate the risk must be identified. This measure is called a control. Specifically, control activities are the elements within a process which have been developed to facilitate actions to reduce or eliminate either the likelihood or the impact of a risk event.

Controls can be divided into two main categories: preventative and detective. Preventative controls act to prevent the risk or event from taking place. In a context of physical security they are typically automated controls, such as placing a guard around a piece of machinery. Detective controls act after the risk or event has taken place and identify and mitigate the risk which has already occurred. Typical detective controls in a security context might be the sensors which provide warnings of the safety around a piece of machinery being stolen. Analyzing preventative controls is particularly important in risk assessments since they tend to reduce the likelihood of a risk occurring.

Therefore, in the legal risk library, for each identified risk one or more control activities are identified. An example will illustrate:

One of the objectives of *SPECTRUM's* Pre-Entry Procedure reads: "*Assess the impact on the organization of acquiring the items in terms of [space, manpower, financial], legal [and* *conservation] issues*"[15]. Following the *ISO31000* principles discussed above, the legal risk is: "*Acquisition of inappropriate object caused by inefficient assessment of the legal impact on the Organization. This may result in lack of or acquisition of defective item title, breach of 3rd party Intellectual Property Rights, liability for 3rd party damages, obligation to return object*". One control activity to mitigate or eliminate the risk from materializing will be to "*establish who holds legal title to every object proposed to be acquired*". Yet another control activity for the same risk will read: "*For proposed acquisitions seek agreement in principle to transfer of title in advance*". As it is evident, one risk can be mitigated by multiple control activities; for instance, the control activities for this risk count to five and more can possibly be added.

So far, we have described how the legal risk library is created; it involves the organization's objectives, the associated legal risks and the control activities which can be performed in order to reduce or eliminate either the likelihood or the impact of a risk event. All this information has been inserted in an elaborate working paper. For illustration purposes, below is the entry of the objective, risk and control activities described above:

Table 1: Risk Library Components

SPECTRUM Procedure	Control Objective	Risk	Control Activity
Pre-Entry	Assess the impact on the organization of acquiring the items in terms of [space, manpower, financial], legal [and conservation] issues.	**[RISK 1]**: Acquisition of inappropriate object caused by inefficient assessment of the legal impact on the Organization. This may result in lack of or acquisition of defective item title, breach of 3rd party IPRs, and liability for 3rd party damages, obligation to return object; **[RISK n]**: ...	**[CONTROL 1]**: Establish who holds legal title to every object proposed to be acquired; **[CONTROL 2]**: For proposed acquisitions seek agreement in principle to transfer of title in advance; **[CONTROL n]**: …

[15] For the purposes of identifying and assessing the legal risks, issues of space, manpower, financial and conservation are irrelevant for this objective as they do not involve major legal risks, hence they have been inserted in brackets. The articulation of the risk will focus on legal issues and so will the control activity.

4. LEGAL RISK LIBRARY

Having described how the legal risk library has been created for the purposes of assessing legal risks of art collections, it is time to go through *SPECTRUM's* procedures and indicatively refer to a selected[16] objective for each procedure, one of the legal risks it involves and a control activity suitable to mitigate the impact of the risk or likelihood of it materializing.

i. PRE-ENTRY PROCEDURE

SPECTRUM's first procedure for collections management is the Pre-Entry Procedure. This is defined as "*the management and documentation of the assessment of potential acquisitions before their arrival at the organization*". This procedure has in place five objectives (minimum standards); from these, only three involve legal risks. One of them reads: "*Ensure that an expected date of deposition & responsibility for the items in transit is agreed with the depositor*". For this objective, the legal risk has been expressed as "*Undefined responsibility for the item/s in transit caused by lack of or inadequate relevant agreement with the depositor. This may cause inability to claim for loss or damages, liability for 3rd party damages, and reputation risk*". A preventive control activity to mitigate or eliminate this risk would be to "*agree with depositor over responsibility for loss or damage of object in transit*".

ii. OBJECT ENTRY PROCEDURE

The second procedure in *SPECTRUM* is the Object-Entry Procedure. This is defined as "*the management and documentation of the receipt of objects and associated information which are not currently part of the collections. Any object which does not currently have an object number assigned by the receiving organization must be dealt with within this procedure"*. Out of the twelve objectives of this procedure, only five involve legal risks. One of them reads: "*establish who has legal title to the object in case of subsequent acquisition*". The legal risk for this objective reads: "*Inability to establish who the original owner/ depositor is caused by ineffective due diligence on legal title before object-entry. This may result in inability to subsequently legally acquire the object [if entered on loan or deposit]*". One of the preventive control activi-

[16] As described above, all of *SPECTRUM's* objectives involve risks, but not all involve legal risks. The objectives selected for the purposes of creating a legal risk library are only those which involve legal risks.

ties for this risk would be to "*obtain an original copy of a written confirmation signed by the owner declaring that she/ he is the absolute owner of the object*".

iii. LOAN-IN PROCEDURE

The third SPECTRUM procedure is the Loans-In Procedure which is defined as "*managing and documenting the borrowing of objects for which the organization is responsible for a specific period of time and for a specified purpose, normally exhibition/ display, but including research, conservation, education or photography/ publication*". This procedure has twelve objectives in place, but only five of those involve legal risks. One of them reads: "*Ensure that the terms & conditions of the loan are adhered to*". The relevant legal risk is expressed as "*breach of the terms of the loan agreement caused by inadequate monitoring/ implementation of same. This may result in liability for breach of contract, liability for reproduction & other Intellectual Property Rights, liability for unaccounted for costs, liability for exhibiting illegally acquired/ excavated objects, liability for insurance & indemnity*". One control mitigating such risk would be to "*frequently monitor status of loaned objects and submit reports to the lender*".

iv. ACQUISITION PROCEDURE

The fourth of *SPECTRUM's* procedures is the Acquisition Procedure. This is defined as "*documenting and managing the addition of objects and associated information to the collections of the organization and their possible accession to the permanent collections*". Of the eight objectives in place for this procedure, three involve legal risks. The first provides that the organization must "*ensure that written evidence is obtained of the original title to an object & the transfer of title to the acquiring organization*". Interestingly, two legal risks have been identified for this objective. One reads: "*Object acquired from unlawful possessor caused by lack of written evidence of the original title. This may result in legal title claims by 3rd parties, liability to return object to rightful owner, liability for breach of Intellectual Property Rights associated with the object, reputation risk for holding illegal or illicit item*". Yet another risk for the same objective reads: "*Object not legally acquired by the Organization caused by lack of written evidence of the transfer of title. This may result in legal title claims by original owner, liability for breach of Intellectual Property Rights associated with the object, inability to lend the object, inability to obtain insurance cover for the object*". A control that can be set in order to mitigate the first of the two risks would be to obtain -if the method of acquisition is purchase- a signed statement stating that the vendor is the legal owner, a signed statement of the object's provenance and the original invoice and receipt. It is interesting to note that different controls will be relevant for the same risk depending on the method of acquisition – be it a bequest, a gift, a purchase, exchange or field collection.

v. INVENTORY CONTROL

The fifth of *SPECTRUM's* procedures is the Inventory Control Procedure which is defined as "*the maintenance of up-to-date information accounting for and locating all objects for which the organization has a legal responsibility. This may include objects on loan, unaccessioned or previously undocumented items, temporarily deposited objects and support collections*". Only one of the four objectives of this procedure involves a legal risk and this requires the organization to "*provide a reference to ownership of each object*". A relevant risk has been expressed to read: "*Uncertainty about the ownership of an object caused by a lack of proper reference regarding ownership. This may result in liabilities for loss or damage of objects not belonging to the Organization, inability to legally dispose of objects, liability for lack of attribution to the owner*". One of the controls in this case would be the simple, preventative control involving the implementation of the objective itself: a reference to ownership inserted in each object's file and updated when a change of ownership or even possession takes place.

vi. LOCATION AND MOVEMENT CONTROL PROCEDURE

Next in *SPECTRUM's* procedures is the Location and Movement Control Procedure. This is defined as "*the documentation and management of information concerning the current and past locations of all objects or groups of objects in the organization's care to ensure the organization can locate any object at any time. A location is a specific place where an object or group of objects is stored or displayed*". *SPECTRUM* has put in place eight objectives for this procedure; yet only two involve legal risks. One of these provides that the organization must "*provide a record or a statement of the persons responsible for authorizing object movement*". The risk here is "*unauthorized object movement caused by lack of or ineffective recording of persons authorizing object movement. This may result in theft by staff, inability to claim against the abettor in case of theft by staff, theft not identified on time, liability for damages to owner in case of theft/ loss/ damage, liability for not meeting standard of care for loaned objects, inability of claiming insurance"*. A control to mitigate or eliminate this risk would again be again to implement the objective itself; always keep an up-to-date record of who is responsible for authorizing object movement within a collection.

vii. TRANSPORT PROCEDURE

The seventh collection management procedure set by *SPECTRUM* is the Transport Procedure. This is defined as “the management and documentation of the transport of objects for which the organization is partially or fully responsible”. Here, there are legal risks involved in four out of the seven objectives. One such objective requires the organization to “*ensure that all legal obligations are complied with, incl. any customs requirements, CITES, airfreight security legislation & firearms regulations*”. One legal risk inherent in this objective is expressed as “*breach of legal obligations in relation to object transport caused by ineffective compliance mechanisms & checks. This may result in liability under cultural property laws for illegal import/ export permits, liability under CITES, obligation to return object to export country*”. One control activity to mitigate this risk would be obtain customs clearance (if the object is travelling to or from abroad) before transport takes place.

viii. CATALOGUING PROCEDURE

Next in *SPECTRUM* is the Cataloguing Procedure which is defined as “*the compilation and maintenance of key information, formally identifying and describing objects. It may include information concerning the provenance of objects and also collections management documentation e.g. details of acquisition, conservation, exhibition and loan history, and location history. It need not bring together in one location everything known about the object, but should provide cross-references to any other relevant information source known to the organization*”. Three objectives are set by *SPECTRUM* for this procedure; although all three are crucial to efficient collections management, none involves major legal risks and therefore no risks under the Cataloguing Procedure have been inserted in the risk library. Nevertheless, a blank entry under the procedure’s name is inserted for the purposes of reflecting the completed SPECTRUM standard.

ix. OBJECT CONDITION CHECKING AND TECHNICAL ASSESSMENT PROCEDURE

The ninth SPECTRUM procedure is the Object Condition Checking and Technical assessment Procedure which is defined as “*the management and documentation of information about the make-up and condition of an object, and recommendations for its use, treatment and surrounding environment*”. Only two of the nine objectives of this procedure involve legal risks. One of the reads: “*Ensure that individual & collective responsibilities within the organization* *for condition checking are clearly defined & identified*". A legal risk for this objective would be "*failure to initiate object-checking caused by undefined individual and collective responsibilities for condition checking. This may result in liability for damage to objects already damaged when entering the Organization, breach of standard of care for not detecting which objects are need in of conservation, liability to depositor/ owner in relation to object condition & completeness [where a statement of condition on entry is not issued]*". A control activity aiming to mitigate or eliminate this risk would be to keep an up-to-date record of who is responsible for condition-checking at any time and within every department of the organization.

x. CONSERVATION AND COLLECTIONS CARE PROCEDURE

The next procedure set by SPECTRUM is the Conservation and Collections Care Procedure. This is defined as "*the documentation and management of information about interventive and preventive conservation activities*". Two of the five objectives involve legal risks here; one of them reads: "*Ensure details of all interventive conservation work & preventive conservation measures are recorded, with the name of the person who performed the work , the organization to which they belong & the date on which it took place*". A legal risk if this objective is not properly implemented is expressed as "*unrecorded conservation work performed on the object caused by inefficient formal documentation of the conservation & collections care procedure. This may result in damage claims by the owner, involvement in claims of forgery, liability for damage caused to the object while in Organization's care, liability for violation of professional rules*". One of the control activities in this case would be to seek and obtain approval for treatment from the object owner and keep a written confirmation of same.

xi. RISK MANAGEMENT PROCEDURE

The eleventh SPECTRUM procedure is the Risk Management Procedure which is defined as "*the management and documentation of information relating to potential threats to an organization's collections and the objects for which it is temporarily responsible. It includes the provision of information enabling preventative measures to be taken as well as documentation supporting disaster planning*". One of the objectives of this procedure involves a legal risk and requires the organization to support "*accountability for objects during and after a disaster*". The legal risk here is expressed as "*inability to account for objects during & after a disaster caused by lack of a duplicate, secure copy of inventory information. This may result in damage claims by the owner, inability to claim insurance, liability for damage caused to the object while in Organization's care, liabilities for loss or damage of objects not belonging to the Organization,* *liability to depositor/ owner in relation to object condition & completeness*". The main control activity here is to record the secure location of a duplicate copy of inventoried information.

xii. INSURANCE AND INDEMNITY MANAGEMENT PROCEDURE

The next *SPECTRUM* procedure is the Insurance and Indemnity Management Procedure. This is defined as "*documenting and managing the insurance needs of objects both in an organization's permanent collection and those for which it is temporarily responsible*". Five out of the six objectives here involve legal risks. One such objective requires the organization to "*ensure that all objects in an organization's care are appropriately insured within the terms of the organization's policy*". A legal risk involved here is expressed as "*insurance of objects not compliant with Organization's policy caused by inefficient insurance & indemnity management. This may result in trustee liability for breach of trust/ breach of fiduciary duty/ negligence or maladministration/ negligent misrepresentation or mis-statement/ misuse of confidential information. Furthermore, object confiscation/ detention during transport, public liability, liability under any Government Indemnity Scheme*". A control activity for this risk would be to always perform a review of the organization's policy prior to obtaining insurance cover for any of the objects in the organization's care and appoint a member of the organization's staff to carry out such review.

xiii. VALUATION CONTROL PROCEDURE

Next is the *SPECTRUM* Valuation Control Procedure. This is defined as "*the management of information relating to the financial valuations placed on individual objects, or groups of objects, normally for insurance/ indemnity purposes*". One of the four objectives involves a legal risk and this reads: "*Ensure that valuations are updated as & when required*". The legal risk here is expressed as "*object valuations are not updated as and when required caused by inefficient valuation monitoring. This may result in inability to claim object's current value from insurance, liability for loss/ damage exceeding object's current value*". A control activity aiming to mitigate this risk would be to monitor and update object valuations, while also updating their insurance and indemnity cover, where applicable.

xiv. AUDIT PROCEDURE

Number fourteen of the *SPECTRUM* procedures is the Audit Procedure which is defines as "*the examination of objects or object information, in order to verify their location, authenticity, ac-*

curacy and relationships". One of the objectives requires an organization to "ensure that remedial action is taken as required, following discovery of missing objects, wrongly or inadequately documented objects, or undocumented objects". The relevant legal risk here is expressed as "*lack of remedial action upon discovery of missing, undocumented or inadequately documented objects caused by inefficient audit procedure. This may result in liability for negligence, maladministration, breach of professional standards, barred from claiming for theft due to statute of limitations time restrictions*". One of the control activities in this case would be to initiate an investigation by immediately informing the police and the relevant stolen property publications/ databases in case an object is found missing.

xv. RIGHTS MANAGEMENT PROCEDURE

Next in *SPECTRUM* is the Rights Management Procedure which is defined as "*the management and documentation of the rights associated with the objects and information for which the organization is responsible for, in order to benefit the organization and to respect the rights of others*". *SPECTRUM* has set nine objectives for this procedure, five of which involve legal risks. One such objective requires the organization to "*ensure that when the organization commissions works, all Intellectual Property Rights are assigned to the organization*". The legal risk involved if this objective is not properly implemented reads: "*non-assignment of Intellectual Property Rights to the Organization for commissioned works caused by lack of or inadequate legal due diligence. This may result in inability to freely use object commercially & resulting loss of income, liability to right holder for breach of Intellectual Property Rights, additional expenses incurred for obtaining relevant licenses, 3rd party liability for inability to publish object [e.g. for loans-out exhibition catalogue purposes]*". A control activity mitigating such a risk would be to have a commission agreement with the object's creator with an express provision of assignment of all intellectual property rights. Such provision should include the IPR status of the content of the object, details of any sub-licenses being acquired and/ or granted, a note of warranty and indemnity clauses, note on past history (e.g. previous rights).

xvi. USE OF COLLECTIONS PROCEDURE

Next in *SPECTRUM* is the Use of Collections Procedure. This is defined as "*the management and documentation of all uses of and services based on collections and objects in the organization. These include exhibition and display, education handling collections and the operation of objects, research and enquiries, reproduction and the commercial use of objects and associated documentary archives.*" Seven objectives are set by *SPECTRUM* for this procedure; although all of them are crucial to efficient collections management, none involves major legal risks and therefore no risks under the Use of Collections Procedure have been inserted in the risk library. Nevertheless, a blank entry under the procedure's name is inserted for the purposes of reflecting the completed *SPECTRUM* standard.

xvii. OBJECT EXIT PROCEDURE

The seventeenth *SPECTRUM* procedure is the Object-Exit Procedure defined as "*the management and documentation of objects leaving the organization's premises*". Five objectives are set for this procedure, four of which involve legal risks. One such objective reads: "*Ensure that a signature of acceptance from the recipient is always obtained when transferring custody of an object between parties. [Where the first recipient is a courier it may also be necessary to get a signature from the person or organization to which it is being delivered]*". The legal risk would be expressed here as "*object transfer of custody from the Organization to a 3rd party lacking signature of recipient's acceptance caused by inefficient monitoring of object-exit. This may result in liability for loss/ damage of objects currently not in the Organization's care/ responsibility, inability to trace object for return to Organization, inability to claim against recipient in case of loss/ damage*". The obvious preventive control activity here would be to implement the objective itself; namely, to always obtain a signature of acceptance from the recipient when an object's custody is transferred between parties.

xviii. LOANS OUT PROCEDURE

The next SPECTRUM procedure is the Loans-Out Procedure. This is defined as "*documenting and managing the loan of objects to other organizations or individuals for a specific period of time and for a specific purpose, normally exhibition/ display, but including research, conservation, photography and education*". There are three objectives involving legal risks here. One requires the organization to "*ensure that the borrower confirms their intent & ability to provide an acceptable level of care, security & safekeeping for the object*". The legal risk here is expressed as "*lack of confirmed undertaking by the borrower for the provision of acceptable level of care, security & safekeeping for the object caused by inefficient due diligence. This may result in 3rd party claims [by owner, donor] for loss/ damage, seizure of object by 3rd party in the hands of borrower [due to lack of immunity from seizure], inability to claim for object damage, liability for unaccounted for costs*". One of the control activities to mitigate the risks involved if this objective is not properly implemented would be to obtain - prior to lending the object - a national return guarantee issued by the authorities of the State which temporarily imports the object. Such guarantee is confirming to the lender that in case a claim for seizure is filed with the Courts of the importing State by an individual with an enforceable claim against the State who owns the object in question, the State will guarantee that the object shall not be seized – it essentially provides immunity from seizure.

xix. LOSS AND DAMAGE PROCEDURE

The next *SPECTRUM* procedure is the Loss and Damage Procedure defined as "*managing and documenting an efficient response to the discovery of loss of, or damage to, object(s) whilst in the care of the organization*". Both of the objectives set for this procedure carry legal risks, yet they have been slightly rephrased to better reflect the risks involved. One of the objectives reads: "*enable the organization to take all reasonable steps to prevent further loss or damage*". This has been rephrased to read: "*Discovering object loss or damage, ensure that all reasonable steps are taken to prevent further loss or damage*". The legal risk here is expressed as "*Object loss or damage not followed by action to mitigate/ prevent further loss or damage caused by inefficient response to the discovery of lost/ damaged objects. This may result in liability for negligence to owner/ lender/ shareholder, trustee liability for negligence & maladministration, inability to recover lost object, inability to claim under insurance cover, barred from claiming for theft due to statute of limitations time restrictions*". A control activity to mitigate further loss would be, in case the loss is a result of theft, to inform all necessary authorities and keep copies of all records and communications with the person responsible for the object, internal security staff, police and external specialists.

xx. DEACCESSION AND DISPOSAL PROCEDURE

The twentieth *SPECTRUM* procedure is the Deaccession and Disposal Procedure. This is defined as "*the management of disposal (the transfer or distraction of objects) and of deaccession (the formal sanctioning and documenting of the disposal)*." Five out of the eight objectives set in place by *SPECTRUM* involve legal risks. One of them requires the organization to "*ensure that, where necessary, preference for transfer be given to recognized organizations (e.g. Accredited museums in the UK, Ministry of Culture for antiquities - added)*". The legal risk involved in case this objective is not properly implemented is expressed as "*object transfer without having given obligatory preference to organizations/ Ministries caused by lack of or inadequate legal due diligence. This may result in breach of cultural property laws, liability for illegal export, void transfer of title, State confiscation of object*". The control activity which will prevent such a risk from materializing is the implementation of the objective itself; namely, that before deaccessioning of disposing of an object, the organization informs the necessary recognized organization (e.g. Ministry of Culture) and gives it adequate time to express its preference to the object.

xxi. RETROSPECTIVE DOCUMENTATION PROCEDURE

The last *SPECTRUM* procedure is the Retrospective Documentation Procedure which is defined as "*the improvement of the standard of information about objects and collections to meet SPECTRUM Minimum Standards by the documentation of new information for existing objects and collections*". This is an important *SPECTRUM* procedure[17]; nevertheless its objectives do not involve any major legal risks and therefore, although the entry in the Legal Risk Library is maintained for completeness and future purposes, it is left blank with no objectives, risks and control activities in place.

At this stage, the description of the legal risk library with reference to all 21 of the *SPECTRUM* procedures is completed. It is interesting to note that in practice, as already described above, one objective can involve multiple risks and one risk can have multiple controls. In addition, it is evident that in many cases, the objective and the control are almost identical; that is, the control which will mitigate or eliminate a risk is the implementation of the objective itself. We saw examples of this above, for instance, in the Inventory Control Procedure as well as in the Location and Movement Control Procedure. This process of assessing risk is indeed a working process, constantly enriched and frequently amended.

The benefit of the complete legal risk library with all the objectives, risks and control activities is that it can be put in practice and be utilized by a professional to facilitate the assessment of legal risks in an art collection. It is essentially the knowledge domain which identifies in which areas of an art collection legal risks exist and what can be done to mitigate their likelihood of occurring or their impact. Yet, in order to *assess*[18] legal risks, a risk assessment

[17] Indeed, it is one of the eight *SPECTRUM* Primary Procedures which constitute a basic collections management system adequate to provide accountability and to ensure that a museum knows at any time exactly which items it is legally responsible for and where each item is located. The other seven Primary Procedures are the Object-Entry Procedure, the Acquisition Procedure, the Location and Movement Control Procedure, the Cataloguing Procedure, the Object-Exit Procedure, the Loans-In Procedure and the Loans-Out Procedure.

[18] Assessment essentially refers to the *effect* they can have on an organization.

methodology must be selected and followed; the principles of a risk assessment methodology are discussed and described in the next chapter.

5. RISK ASSESSMENT METHODOLOGY

As it has already been mentioned, the objective of a risk assessment is to identify, measure and monitor the risks and controls to which a collection is subject.

i. Commitment of the Organization's Board

Before commencing a risk assessment methodology, it is crucial that commitment from the highest level of the organization has been established. Specifically, the board, trustees or owners should approve of the risk policy and a full member of the board should have responsibility for the management of risk. Without acceptance from that level of the organization, a risk assessment will not be taken seriously and it is very unlikely that the risks and controls which the organization faces will be fully identified and monitored.

ii. Qualitative vs. Quantitative Risk Assessment

Generally, the assessment of risks and controls of an organization can be qualitative, quantitative or both[19]. A qualitative risk assessment will be based on value judgments such as high, medium, low. In contrast, a quantitative risk assessment will assess the risks identified through actual numbers such as percentages for likelihood and monetary values for impact. Due to the nature of an art collection, a qualitative risk assessment is more appropriate. This is because subjective components are a major part of an art collection and these are less likely to be subject to any type of quantification. For example, the significance of a painting in a collection involves qualitative and subjective judgement (e.g. historical significance in relation to the development of art history) and this will largely determine the risk that the collection will run in relation to that painting and consequently the control activity which will be implemented (e.g. whether it should specifically be insured for theft – which is expensive – or merely be included in the organization's basic insurance, or even not at all, depending on the organization's available resources).

[19] *ISO31010 International Standard for Risk Management – Risk Assessment Techniques*, 2009.

iii. Organizational objectives

Risk assessments should start at a strategic level. It is therefore necessary to have a list of the organization's strategic and operational standards –such as *SPECTRUM*- so that the assessment can be carried out in relation to the principal aims of the organization. Without these to provide a focus, a risk assessment will lack an appropriate level in which to place its risks. The result will be a mixture of high-level, process and activity risks, which will give very little benefit due to the heterogeneous nature of the risks (and therefore the controls) and the lack of any clear connection with the objectives relevant to each other. As already discussed and analysed, the use of *SPECTRUM* gives the legal risk assessment of art collections this very list of an organization's strategic and operational standards, setting the necessary context.

iv. Types of Risk

There are three types of risk run by an organization and which must be identified and assessed during a risk assessment. Firstly there is inherent risk which is assessed with no account taken of the controls that already exist within an organization. The advantage of assessing risk at an inherent level is that there are no assumptions about the quality or existence (or otherwise) of controls. It also identifies the level of loss to which the organization is exposed if and when the existing controls fail.

Then there is residual risk which is the risk that remains after risk treatment and can contain risk which is yet unidentified. Residual risk is assessed after allowing for the existing controls within the organization. This means that there are assumptions about the adequacy and continuing effectiveness of the controls. The level of loss arising from a residual risk assessment is the day-to-day loss which the organization or collection can suffer with the existing level of control.

Finally, an organization may opt to tolerate some risks after they have been assessed. This is the target risk and refers to the final level of expected risk appetite that exists within an organization after all mitigating effects are at the organization's desired level.

v. Frequency of Risk Assessment

How often risk assessment is carried out is dependent on each organization's circumstances. Many organizations carry out quarterly risk assessment, focusing on the risks and controls that have changed during the quarter. Other organizations carry out annual assessments at a more detailed level. The best guide is to consider how frequently individual risks are likely to change. In the case of art collections, a complete risk assessment of all the organization's risks is more likely to be performed every few years with a more focused risk assessment taking place more frequently, especially when a major change in circumstances takes place, for example, in case of new acquisitions or major loans.

vi. Likelihood/impact/severity

The main task of the risk assessment is that once risks are identified through the use of the risk library, they are evaluated for likelihood (or frequency) and impact (or severity). Likelihood is reviewed on the basis of how frequently a risk event will occur over a given period (e.g. monthly, three times a year, once in a decade).

The impact, on the other hand, is evaluated in terms of direct or indirect loss. Direct loss for impact is often easier to assess as it is linked to the charge to the organization's financial statements and accounts. Even when there are no historical figures available, it can often be calculated easily. Indirect loss is much more difficult to assess and inevitably more subjective, as it is based on the total cost to the organization of a risk event occurring. Such items as opportunity loss, for example the cost of redirecting resources to resolve a reputational damage problem, are considered in evaluating indirect loss. This means that the indirect can often be a larger figure than the direct loss. Organizations should combine the two levels of loss (direct and indirect) to assess the true impact of risk events. Finally, the combination of the above two parameters – likelihood and impact – determine a risk's severity, which in turn will determine to the elimination of which risks an organization will give more of its –often- limited resources[20].

vii. Heat maps

When entering an organization to assess its legal risks, the first risk report produced is a heat map. Heat maps give readily accessible and visual representation of the risk profile of an organization and for this reason must be positioned as the start of risk reporting and not the final risk report. They essentially allow an organization to focus on the most significant risks in the absence of any other data.

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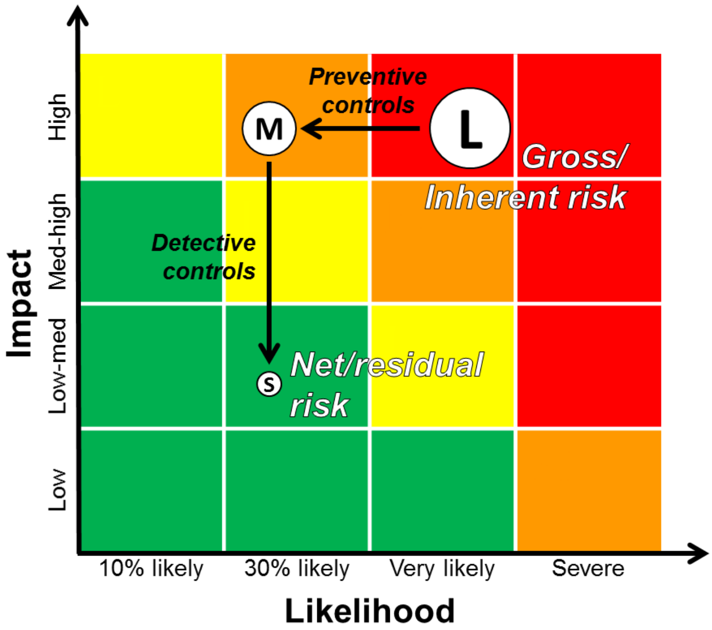
[20] See note 8, above

Illustrating, by means of a heat map, the reduction to a risk due to the mitigating effect of the controls is helpful in visualizing which controls are fundamental to reducing the risk profile.

Chart 3: Risk Heat Map



viii. Identifying controls

Having created a heat map through which the organization's most 'risky' (weak) areas have been identified, the identification of controls is next.

Analysing preventative and directive controls is particularly important in risk and control assessments as they tend to reduce the likelihood of a risk occurring, whereas detective and corrective controls tend to reduce the impact that the organization suffers. It should be aimed to have a balance, where possible, of controls which mitigate a risk before the event and its effects after the event.

When a variety of types of controls have been identified, their effects can be assessed on the gross likelihood and gross impact scores. The effects can be graphically illustrated on a heat map, a visual representation which rapidly assists management perception and action.

ix. Control Activity Design and Performance

Control activities are assessed on the inherent ability to mitigate risk, their design, and on their actual performance. The Design of a control activity is how spot-on the activity is in relation to eliminating or mitigating the risk. For example, where the risk reads: "*Undefined responsibility for the item/s in transit caused by lack of or inadequate relevant agreement with the depositor. This may cause inability to claim for loss or damages, liability for 3rd party damages, and reputation risk*", a well - designed control activity is to "agree with depositor over responsibility for loss or damage of object in transit". Now, if this control activity is properly implemented, the risk is almost eliminated. This "proper implementation" of a well-designed control activity is called the Performance of the control. Both parameters are reflected in a complete risk assessment (illustrated in Table 2). Additionally, their combination determines the Effectiveness of the control activity. Assessing both design and performance enables action plans to be drawn up that enable a control to be better focused.

x. What a Risk Assessment Looks Like

The results of a risk and control assessment will typically look like the example given in Table 2. This contains numeric assessments of legal risks and controls and identifies the specific controls and both the risk and control owners. Colours or shading help to identify quickly and easily where the greatest risks lie and where to prioritize risk and control monitoring.

Table 2: Sample Risk Assessment Worksheet (including Control Activities)

ID	Risk	Owner(s) of the risk	I	L	S	Control Activity	Owner(s) of the risk	D	P	E
1	Undefined responsibility for the item/s in transit caused by **lack of or inadequate relevant agreement with the depositor**. This may cause inability to claim for loss or damages, liability for 3rd party damages, and reputation risk.	SR	4	4	16	Agree with depositor over responsibility for loss or damage of object in transit.	TJ	2	2	4
2	Inability to establish who the original owner/ depositor is caused by **ineffective due diligence on legal title** before object-entry. This may result in inability to subsequently legally acquire the object [if entered on loan or deposit].	PL, AB	4	3	12	Obtain an original copy of a written confirmation signed by the owner declaring that she/ he is the absolute owner of the object.	TB, KW & EL	3	2	6

3	Breach of the terms of the loan agreement caused by **inadequate monitoring/ implementation** of same. This may result in liability for breach of contract, liability for reproduction & other IPRs, liability for unaccounted for costs, liability for exhibiting illegally acquired/ excavated objects, liability for insurance & indemnity.	SR, JK	3	2	6	Frequently monitor status of loaned objects and submit reports to the lender	ZK, EL	4	4	16
4	Object acquired from unlawful possessor caused by **lack of written evidence of the original title**. This may result in legal title claims by 3rd parties, liability to return object to rightful owner, liability for breach of IPRs associated with the object, reputation risk for holding illegal or illicit item;	PL	2	4	8	Obtain -if the method of acquisition is purchase- a signed statement stating that the vendor is the legal owner, a signed statement of the object's provenance and the original invoice and receipt.	EL, TB	1	1	1
5	Uncertainty about the ownership of an object caused by a **lack of proper reference regarding ownership**. This may result in liabilities for loss or damage of objects not belonging to the Organization, inability to legally dispose of objects, liability for lack of attribution to the owner.	PL	4	3	12	A reference to ownership inserted in each object's file and updated when a change of ownership or even possession takes place.	ZK	2	1	2
6	Unauthorized object movement caused by **lack of or ineffective recording of persons authorizing object movement**. This may result in theft by staff, inability to claim against the abettor in case of theft by staff, theft not identified on time, liability for damages to owner in case of theft/ loss/ damage, liability for not meeting standard of care for loaned objects, inability of claiming insurance.	CK	2	2	4	Keep an up-to-date record of who is responsible for authorizing object movement within a collection.	CK & EL	3	2	6

Key: I = impact; L = likelihood; S = severity; D = design; P = performance; E = effectiveness

xi. Explicit acceptance of risks or need for action plans

When the gross risk has been assessed and the current quality of control(s) for each risk has been scored it is possible to review whether the net risk remaining is acceptable to the organization, or whether there is a need for an action plan to either enhance the control(s) or reduce the risk exposure in some other way.

xii. Risk Assessment in Practice - Facilitated Sessions, Workshops & Interviews

Having established the methodology of a risk assessment, the question which arises is "how does one gather all the necessary information?" There are four main ways which a professional uses.

Facilitated sessions for risk assessment are the most common way to begin assessing an organization's risks and controls related to an art collection. There is a lot of merit in assessment sessions being facilitated by a third party, such as a consultant, and risk management sponsor or the organization's board. This enables the best of both worlds to be obtained by using someone with outside knowledge of risk methodologies combined with someone with internal knowledge of the organization.

In addition, the risk assessment methodology can be applied through workshops, interviews or questionnaires as well. Each has different advantages.

Workshops enable the sharing and discussion of risks relating to an area. The team involved in the workshop is able to spend time agreeing on the risk and debating the impact and likelihood of each risk. This will often be the first time that the team, as a whole, has considered the risks and controls to the area. Workshops will need to be ably facilitated to make sure that participants have an equal voice and are not dominated by the behaviour or seniority of one of their members.

Interviews are far more efficient in the use of time required initially as each person is usually able to identify and assess the relevant risks quickly. However, a second round of interviews is often required in order to share the combined risk assessment with each participant. This can quickly degenerate into a considerable number of rounds of interviews unless the process is well managed.

6. CONCLUSIONS

As we have seen, a legal risk assessment enables us to identify and act upon different risks expressed in terms of loss of value to an entire art collection and/or organization. Therefore, risk assessment is a tool that can help one mitigate such loss of value of an art collection. It has been demonstrated that value here refers not only to financial value, but to historical, reputational and societal as well.

Current risk management practices in the art industry are quite focused. Although most of the major art institutions and a few collectors do have some type of risk management policy whereby risks are identified and assessed, decisions for risk reduction or risk tolerance are made and implementation and monitoring controls are placed, nevertheless, risk management of art collections takes into account mainly the risks of physical hazards, environmental disasters, theft and transport risks, as well as employee and visitor accidents (where applicable). Although all the above have legal consequences, legal risks per se are not systematically and proactively assessed.

Given the scale and increased complexity of the international art industry, assessing a collection's legal risks has become a necessary activity that must be performed proactively. We have seen that the impact that the materialization of legal risks can have ranges from low to very high and includes damage in terms of financial value of the collection, reputation damage of the collector or art institution, court litigation, loss of revenue etc. The examples of the risk library discussed aimed at illustrating this point and stressing the necessity of assessing legal risks of an art collection.

7. WAY FORWARD

This project is and shall continue to be a work-in-progress. This means that the risk library shall continue to be developed, enriched and amended; indeed the way forward is to create a more complete and robust risk library from empirical knowledge and by making additional use of collections standards other than *SPECTRUM*. Finally, like any work-in-progress, the betterment of the risk library and risk assessment methodology shall take place through the actual, practical execution of same in organizations, museums and private collections; in other words, with hands-on experience, this project can –in time- be perfected; nevertheless it can already be a useful tool in its current state.

BIBLIOGRAPHY

Blunden, T. & Thirlwell, J. M*astering Operational Risk*, 2010.

Dawson, A. (ed.) & Hillhouse, S. (ed.), *SPECTRUM 4.0, the UK Museum Collections Management Standard*, Version 4.0, Collections Trust, 2011.

Harrison, M., *Insuring Museum Collections: A Collections Care How-To Guide*, Norfolk Museums and Archeology Service, 2012.

ISO31000 International Standard for Risk Management – Principles and Guidelines, 2009.

ISO31010 International Standard for Risk Management – Risk Assessment Techniques, 2009.

Lerner, R. & Bresler, J., *Art Law, The Guide for Collectors, Dealers and Artists*, Vol. II, 4th ed., 2012.

Poole, N., *Understanding Collections Management*, slides from a teaching session at University College, London, 2009.

Prideaux, A., Risk Management and Insurance for Museums, *Association of Independent Museums*, June 2007.